IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE ACTING CHIEF JUSTICE MR.K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 2ND APRIL 2007 / 12TH CHAITHRA 1929

WA.No. 352 of 2007(A)

AGAINST THE JUDGEMENT/ORDER IN OP.2584/2001 Dated 21/02/2006
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APPELLANT: PETITIONER

RAVINDRAN NAIR, AGED 41 YEARS,
S/O.GANGADHARAN PILLAI, BLOCK NO.557,
K.P.COLONY, CHOTTUPARA, NEDUMKANDOM,
UDUMBANCHOLA TALUK.

BY ADV. SRI.B.GOPAKUMAR
SMT.CHINCY GOPAKUMAR

RESPONDENTS: RESPONDENTS IN OP
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1. **THE BRANCH MANAGER,**
   NEW INDIA ASSURANCE CO.LTD.,
   KATTAPPANA BRANCH.

2. **RATHEESH BABU, S/O.SEBASTIAN,**
   MANPURATH HOUSE, NEDUMKANDOM P.O.

3. **K.V.SCARIA, KOOVAKUNNEL HOUSE,**
   CHOTTUPARA P.O.

4. **THE TAHSILDAR (RR), NEDUMKANDOM.**

BY GOVERNMENT PLEADER SMT.K.MEERA
SRI.V.P.K.PANICKER
SRI.M.T.SURESHKUMAR
SRI.R.RENJITH
SRI.A.C.DEVY

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 02/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.S. RADHAKRISHNAN, AG.C.J. & M.N. KRISHNAN,J.

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W.A. NO. 352 OF 2007

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Dated this the 2nd day of April, 2007.

J U D G M E N T

Radhakrishnan, Ag.C.J.

Heard counsel on either side. The original petition was preferred challenging the award passed in O.P.(MV) 839/95 which was preferred by the 2nd respondent herein claiming compensation for the injury sustained by him. The O.P(MV) was disposed of by the Motor Accidents Claims Tribunal, Thodupuzha on 4th November, 1998 by awarding an amount of Rs.40,000/- as compensation to the petitioner therein. Though notice was issued by the Tribunal to the 2nd respondent herein, there was no appearance. Hence, the Tribunal passed an exparte order. Later, this order was challenged by the 2nd respondent by filing an I.A. 1985/99 in O.P.(MV)839/95 for setting aside the award passed by the Tribunal. That application was also dismissed by the Tribunal against which a writ petition was preferred before this Court.

This Court by judgment dated 21st February, 2006 dismissed the O.P. against which the present writ appeal has been preferred.

2. We notice that the vehicle involved in the accident is bearing Reg.No.KL-6.3184. Going by the Policy one Anil Kumar is shown as the actual owner of the vehicle and that fact was not disclosed by the counsel for the appellant. Counsel appearing for the appellant further submits that a duty is cast upon the Insurance Company to disclose the same before the Tribunal. Therefore, Anil Kumar has also to be included in the party for proper adjudication of the matter.

3. In the circumstances, we are of the view that an opportunity has to be given to the appellant to raise his contentions before the Tribunal. Hence, the award passed by the Tribunal as well as the order dated 23rd October, 2000 are set aside and the matter is remanded to the Motor Accidents Claims Tribunal for fresh consideration. The Insurance Company shall take steps to implead Sri. Anil Kumar in the party array before the Tribunal. Therefore, the

matter is remanded to the Motor Accidents Claims Tribunal, Thodupuzha for denovo trial and the Tribunal will pass appropriate orders in accordance with law within four months from the date of receipt of a copy of this judgment. Parties are directed to appear before the Tribunal on 23.4.07.

K.S. RADHAKRISHNAN,
ACTING CHIEF JUSTICE.

M.N. KRISHNAN, JUDGE.

ul/-